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# Quid Novi



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## IT DOES NOT MAKE A DIFFERENCE

By Paul Brown, LLB II

I happened to be present when Dean Morissette was giving the welcoming address to all the first-year students during orientation week. However, old habits (gained from too many courses given by swollen stuffy professors in swollen stuffy amphitheatres). (Here I must add a disclaimer. Perhaps Dean Morissette is swollen and stuffy (what an ugly image...) perhaps he isn't. Don't know myself. Never had a course with him. You made the wrong inference...) die hard and my mind wandered. I only really managed to focus myoptically on portions of what he was saying. After all, he did say that the faculty members would be able to recite his oft-recycled speech verbatim and I had heard that very speech just a year ago.

There were two things that struck me from that speech. The first was that it was indeed substantially the very same speech that he had delivered the year before. The second was that once again he spent the time to explain how diverse the entering class was, coming from all but one of the provinces and from many different countries. Yet again the entering students had all studied in different domains with vastly different levels of education. Once again the sexes had equal representation. As usual the students were all distinguished in some special way.

Has it struck anyone else as odd the manner in which the same speech has been used repeatedly since it seems time immemorial (which I believe is 1189—not sure though, my memory's fading) to describe how different everyone is?

Something is wrong here.

I'm not going to fault Dean Morissette and his speech for several reasons among which one is that he is the dean and he might take offence and I might one day need a favour from him. Another is that the speech was a good lawyer-type speech (and probably will be for yet another year) being articulate, full of the requisite platitudes, fluently bilingual (more so than I could ever aspire to do), and it just generally made the first-year students feel welcome in the faculty (Picture an eloquent bilingual speech given by Mr. Rogers...).

Perhaps the problem is with the faculty itself.

(Cont'd on p.4)

## ...PANTS ON FIRE

By Joshua Fireman, BCL III

If ignorance is bliss, then Jacques Parizeau and Lucien Bouchard must be in a state of absolute rapture. For ignorance is the only explanation that I can think of which could explain the half-truths and lies with which they have been attempting to deceive the populace of Quebec. If these two men and their army of supporters are not suffering from obliviousness with respect to the consequences of both a "no" vote in the upcoming referendum and the consequences of sovereignty,

then the only other possible conclusion would be that they are lying. And, we all know that these two men of honour would never intentionally deceive anyone.

I, for one, am filled with sadness when I see Mr. Parizeau speaking on television these days. It pains me to see a man of such high principles suffering from selective memory lapses. I can only hope that this doesn't signify the onset of Alzheimer's disease on this courageous  
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# ANNOUNCEMENTS /ANNONCES

**S.A.O.- FIRST TERM COURSE VERIFICATION** - commences Monday 12 October and will continue all week. Please be sure to verify your courses at S.A.O.

**LAWYERS FOR SOCIAL RESPONSIBILITY TOGETHER WITH CENTER FOR COOPERATION WITH EL SALVADOR AND CENTRE D'INFORMATION ET DE DOCUMENTATION SUR LE MOZAMBIQUE ET L'AFRIQUE AUSTRALE** - present "Revolution or Reform? The Challenge for a Government of the People", speakers will be Victor Moche, chief representative African National Congress (South Africa) and Manuel Magana, representative in Canada Political-Diplomatic Commission. It will be held on October 7, at 12:30 - 14:30 in room 202.

**GRADUATES PROGRAMMES IN LAW** - We would like to remind everyone that we will once again be preparing and distributing a monthly calendar of events. Please be sure to call, e-mail, fax or mail us information about an upcoming event that you would like mentioned in the calendar. Pauline Normand and Margaret Baratta, 3661 Peel, tel: 6641; fax: 8197; e-mail: pau@falaw.lan.mcgill.ca

**LSA BOOKSTORE -THIS IS THE LAST WEEK THE BOOKSTORE WILL BE OPEN THIS TERM!!!!!!!!!!!!!!** We are open Monday 11-1 and Thursday 2:30-4:30. Buy now or hold your

peace until January.

**SAO-EXAM NUMBERS** will be available at the SAO commencing 12 October. Please present your I.D. card.

## CORNER DES SPORTS CORNER

### MEN'S FLAGFOOTBALL

**HUT! HUT! HUT!** Two games played, two games won for the men's flag football team **EQUALIZERS**. Practice makes perfect - we haven't practiced much and we sure ain't perfect - but we keep on winning. We devastated the med team in our 1st game. They should stick to treating injuries, not getting them. The med quarterback is probably still having night-mares about Edsel M's brilliant defensive effort. Better luck next year Doc. The second game was sheer poetry - beat poetry. With halting consistently we marched forward (and backward) up and down the field. Mario, the team captain and quarterback, conducted a symphony of offensive movements. (ie, he played good). The next 2 games are against frats. Biff and his friends are already shaking in their monogrammed boxers (not). Come see the games. It's cheap entertainment for these recessionary times (let's hope it doesn't last long!).

### WOMEN'S SOCCER

The **KICKBACKEES** are kicking butt. After a tie in their first game they killed their opponents in a

superb 4-0 win in their second game. It seems Coach Edsel M.'s practice sessions during coffee house (how cruel) does pay dividends. Now practice sessions during every coffee house might mean a championship. Hmmmm, I better have a talk with Edsel. Has anyone seen ..... Ahh!! Help, I'm being chased by the Kickbackees.

### ULTIMATE FRISBEE

The **HAIRBALLS** played their first game of the season on Saturday, September 19th, tying **COLD POUTINE** 7-7. The team dominated the first period taking a 4-0 lead with goals by Mike, Paul and Alain. Despite the feline agility shown by Lucie, Chantal, and Jen, the team was unable to hold the lead in the final minutes of the game. After a weeks rest and with the able coach of David M., the team hopes to "cough up" a win for the faculty next weekend.

### FLAGFOOTBALL

**FORCE MAJEURE** n'a pas eu les meilleures conditions pour son premier match: jouer dans de la "BOUETTE" jusqu'aux genoux et face à des adversaires portant chacune des "mouthpieces" (...scary!)... Malgré tout notre équipe féminine a marqué son premier touché (Mith a réussi un exploit si on compare à l'an dernier où les **MOOT LOOPS** (ancien nom) avait du attendre jusqu'à la mi-saison pour compter!!!). Malheureusement, nos adversaires en ont manqué 2! pointage final: 13-7 pour elles.

## THINGS I DON'T UNDERSTAND I

By Ami Kotler; LLB I

As a new first year student, I find myself suddenly, adrift in a strange new world that is certainly exciting, but often confusing. Well my mother always told me "If you're confused, ask!", so with her advice in mind, I will be taking pen in hand in the hope that someday, some of these questions will be made clear. Who knows? Maybe someone else out there is just as confused as me, and just maybe, somebody knows the answers, and is just waiting to be asked.

When was the last time you ate in the cafeteria? After four years of residence food at UofT, I must confess to being pleasantly surprised at how good the food

actually is. But have you noticed that everything is priced so that when the tax is figured in it always adds up to \$1.61 or \$4.96, or \$3.01? I usually clank home from school like a pinball machine with all the pennies I have building up. (Yes, as a matter of fact, that is a roll of pennies in my pocket, and no, I'm not particularly happy to see you...but thank you so much for asking). Taking my mother's advice to heart, I asked the cashier why things were priced this way. They informed me that the problem was not their prices, but rather the tax that they were forced to levy on every food sale. so apparently it's all the government's fault. Remind me to bring this up in Constitutional...

As confusing as the cafeteria is, it is nothing compared to the library. We just had our library tour last week and let me

tell you, I am in awe of the place. I would never have believed that there were so many ways of looking up something that you probably weren't looking forward to much to reading in the first place. One thing did confuse me though. Didn't it ever strike anyone as kinda' odd that in this gargantuan monolithic repository of legal knowledge where everything is quadruple-coded, has an ID number longer than its name and is organized according to everything buy blood-type, you still have to look up case reports according to whether they have a white circular sticker on their back or maybe a square blue one, or a green diamond, or a pink clover? This Lucky Charms approach to library science left me, I must confess, a little baffled. But maybe, once I learn how to read the doggone things, I'll understand better.



## “GANAMOS LA PAZ!”

**Written by a member of Lawyers for Social Responsibility**

**(Alan McConnell; LLB III, President).**

Walking around the busy marketplace in downtown San Salvador one would never imagine that less than 7 months ago, El Salvador emerged from one of the bloodiest civil wars in Latin America, costing over 70,000 lives and displacing approximately one quarter of the population in 12 years. The Peace Accord signed on January 16, 1992 by the Farabundo Marti National Liberation Front (FMLN), the popular liberation movement, and the government of El Salvador ushered in a permanent cease-fire, together with agreements on military, judicial, political, and agrarian reforms.

The country bustles with economic and political activities. Workers in the informal sector - peasants, vendors, community organizers - work 7 days a week. Only the shine white ONUSAL (United Nations Observer Mission in El Salvador) keeps making rounds throughout the country reminds one of the fragile peace agreement.

While in El Salvador, I met with people who devote their lives to ensuring the revolutionary character of the peace process. Women's organizations, federations of peasant cooperatives and communities, and organizations for marginal communities send promoters, or social workers into communities in both the cities and the rural areas daily. They provide the population with technical assistance, hold discussions on the political and economic developments in El Salvador, and encourage the communities to organize and mobilize themselves.

The women's organizations see the peace as a way to finally push the "women's" agenda as a priority in the country. During the war, the issues most fundamental to women were also the most fundamental to society in general: peace, civil liberties, freedom from military repression, etc. Now, many of the priorities remain the same: access to health, education, land redistribution, fulfillment of the peace accord. However, with the formal ceasefire and the collective effort of society in the reconstruction of the country, women are hoping that their male comrades can also recognize the urgency of problems particular to women such as discrimination in the workplace, economic discrimination, violence against women, and access to childcare.

Lawyers working in legal institutions devote their time to educating popular organizations about human rights, researching proposals for constitutional changes, and researching and denouncing acts of human rights violations which continue to exist.

Among the most courageous organizations are the unions who continue to organize political demands despite the unending assassinations and attempted assassinations of their leaders since the signing of the Peace Accord. All this indicate that despite whatever scepticism or reservations people may have about the peace, they are determined to work towards ensuring the fulfillment of the Peace Accord.

According to the FMLN, there is not yet a state of peace but only a cease-fire. Unlike South Africa, the question in the peace process of El Salvador is not whether the changes are irreversible

but what kind of peace is to follow. For example, one of the causes of the conflict is the extreme concentration of land in the hands of the oligarchy. If the government of El Salvador does not carry out land redistribution as specified in the Peace Accord, El Salvador could easily fall back into conditions ripe for war. This is why the largest federation of peasants' organizations in the country has made the fulfillment of the Peace Accord one of their priorities.

Whether this peace can be transformed into a permanent one which ensures political, social and economic democracy will be determined by the participation of the popular organizations, unions, the business sector, and even the pressure of the international community. From what I've seen, the Salvadoran population is determined to make the process participatory; nobody is leaving the fulfillment of the Accord, nor the constitutional, social, and economic changes to merely the government nor the FMLN. We Canadians may have something to learn about what it means to call the constitution and its changes "ours."

For a comparative view of the processes of constitutional changes in El Salvador and South Africa, you are welcome to participate in a workshop entitled "Revolution or Reform? The Challenge for a Government of the People" on Wednesday, October 7, 1992 in room 202 at 12:30 - 14:30. Victor Moche of the African National Congress and Manuel Magnana of the Farabundo Marti National Liberation Front will be speaking. The meeting is sponsored by Lawyers for Social Responsibility; Center for Cooperation with El Salvador; Centre d'information et de documentation sur le Mozambique et l'Afrique Australe.



### It does not make a difference (Cont'd from p.1)

I am sure that they are playing with our minds. They are trying to tell us that we are a varied groups of people. "You are all individuals!" they tell us. "We are all individuals" we cry in unison using the inevitable phoney British accents used when reciting Monthy Python skits.

Why are they doing this, telling us that we are all different and then further homogenising us by letting us choose our 5 elective courses from an immaculate selection of 20 courses? Why are they doing this, admitting CEGEP and university students (only) from far and distant places (Canada is a big country after all...Now...For a while at least), and bringing them here so we can literally bond together as the blast-furnace heat of New Chancellor Day Hall's furnaces melts all during the last heat wave of summer.

I don't know. The answer to that question requires thinking and I'm just a student. Not supposed to think.

I can babble thoughtlessly though, and the first thing to bubble up from the shallow is the notion that someone is hiding something. Yes! Ha! Scandal! Something's rotten in the state of Danmark (besides the Maastricht Treaty...), but what is it? Time for some detective work. Lesees. Hmmm. (Picks up the 1992 edition of the *Res Ipsa Loquitur* (ever thought of renaming it the *Non Sequitur*?) and it falls open to page 57). Looks like someone was either not happy or has a marvellously eloquent gift of sarcasm. Either way, he has hit upon something.

Maybe he just had a bad day. Maybe not. Either way there remains two paragraphs

in the yearbook that are as alone in their uniqueness as Adam and Eve were when they were out setting trends with fig leaves. Although our two biblical trend-setters tend to be dismissed by many (have respect for your elders!), the two paragraphs have the ability to leap out of the page and right into your brain where they refuse to be ignored. They then proceed to fester on the threshold of your consciousness until you actually think about them for a while. No problem though. It only takes about 3 minutes for your marvellous mental defences to transpose the words and rework them and ultimately convert the paragraphs to a benign travelogue that actually never did implicate you as a fellow traveller.

I especially like the first paragraph, which shines eloquent and cynical:

"I hope I never take another journey where one's fellow travellers are for the most part fools and knaves, who will lie, cheat, steal and plagiarise as a matter of course; where ignorance and illiteracy are the norm; where many of those who are supposed to be our guides are incapable of doing what they are so handsomely paid for because they are on ego trips; where slogans are mistaken for thought; where racism, sexism, and ethnocentrism are endemic, and their practice is not just permitted, but also lauded, under the guise of scholarship or human rights advocacy."

These are obviously (what a dangerously submissive word for a law student to use...) the words of someone who feels that he is a just traveller who walks among the unjust. One person who really differs from the rest who themselves had been touted as individuals by the dean one Friday afternoon not so long ago.

If this is true, who's to blame for all these people who displayed such integrity and diversity upon entering the faculty spontaneously exploding into fools and knaves without even realising it? This simply cannot be a plot of our professors, as they were law students at one time too. We are all fools and knaves together — "for the most part" of course. So, we must keep looking...

The witchhunt continues. Hundreds of fingers are pointed. Many scapegoats are pointed at. Several eyes are poked in the resulting confusion. The vision does not get any clearer. A chaotic mob is screaming for vengeance — revenge for individuality and integrity lost — together. Some bright one blames the university — "it's casualty of higher education" they say. another genius blames Old Chancellor Day Hall. It is haunted after all. Me, I blame it on the furnace. Melts the brains when turned on during a heat wave...

What to do? Must rediscover our individuality lost somewhere somehow not so long ago. Let's pull together and collectively fight this menace. This is the point where Captain Picard would ask for suggestions, something Captain Kirk (a real man if there ever was one who deserved a university building named after him...) would never have done. Let's ask Geordi once again to reinvent physics and save the day in 60 minutes less commercials.

If Geordi can't do it we'll have to find a suitable scapegoat to take the fall. My vote's for the heating system. Let's blow the mother up. We all know how unhealthy it is. It must have poisoned our air somehow while melting and freezing us repeatedly over the school years. If we do that we can have a new air system and have our individuality returned in one deft move.

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### ...Pants on Fire (Cont'd from p.1)

politician. However, what other conclusions can one draw from the man's insistence that a vote against the constitutional accord will not be a vote for sovereignty, but rather a vote for a new round of negotiations with the rest of Canada. Correct me if I am wrong, but isn't this the same Jacques Parizeau who played a leading role in ousting Pierre-Marc Johnson from the head of the Parti Québécois because the party had been moving away from its separatist roots and embracing the idea of "national affirmation"? Isn't this the same Jacques Parizeau who has promised that regardless of the outcome of this referendum, an eventual PQ government will hold a vote on sovereignty within the first year of its mandate? Isn't this the same Jacques Parizeau who once called for limits on the number of English-language radio stations in Montreal because they were disproportionate to the number of anglophones on the island?

It is the same Jacques Parizeau? But that's impossible! The Jacques Parizeau (version Fall, 1992) that is campaigning for the "no" side has said repeatedly that a vote against the accord will not be a vote for the break-up of Canada. Today's Jacques Parizeau is perfectly comfortable lunching with high ranking members of the Liberal party and speaking about how much better Quebec will be able to do in future negotiations on a federal

union. This man genuinely believes that a "no" vote will not spur Quebecers toward eventual sovereignty; that it will be nothing more than a simple rejection of a poorly negotiated constitutional deal.

While Mr. Parizeau is so tired that he has begun to forget his own deeply engrained political principles, another of our leaders has begun to suffer the effects of political fatigue. Unless Lucien Bouchard has been made privy to a new form of mathematics, he has been making some very serious errors in his calculations on the costs of separation. The most glaring example is found in his dogged insistence that Quebec can take over responsibility for manpower, including unemployment insurance. Our dear Lucien has somehow calculated that although Quebec receives net gains of \$1.2 billion through the UI programme, a sovereign Quebec would incur no extra costs if it took over responsibility for the unemployed. For this to be the case, one of two scenarios would have to transpire. The first of these would see separation resulting in an economic boom unequalled in modern times, resulting in near full-employment. The second possibility is that UI payments would be slashed to prevent out of control government expenditure. Undoubtedly, the first case is the more likely to result. After all, who would be foolish enough to believe that separation would result in a lower standard of living for Quebecers?

It is unfortunate that both Jacques Parizeau and Lucien Bouchard are under great psychological strain these days. Between senselessly biased attacks by the anglo-dominated media and the latest assault launched by a certain former prime minister (and I'm not talking about John Turner), they are beginning to buckle under the pressure. And, if all this weren't enough, the Royal Bank has shown its true colours by resorting to "economic terrorism" in the form of a report on the economic consequences of separation. Almost unbelievably, the bank believes that sovereignty would result in "two weaker currencies, supported by smaller economies, which would require higher interest rates to attract international investment. Higher rates would translate into slower growth and lost jobs..." These are unquestionable absurd assumptions to make, producing unnecessary fear amongst the great unwashed that separation will not lead them down the path to Shangri-La. How dare the Royal Bank irresponsibly attempt to mislead Quebecers into believing that the pot of gold at the end of the separatist rainbow is filled with devalued Quebec pesos?

It is no wonder that Messrs. Parizeau and Bouchard are experiencing such intense anxiety these days. It has never been harder to carry the torch of truth and honesty. I can only hope, when all is said and done on October 26, that these two paragons of virtue get exactly what they deserve...

## THE NEW CITATION GUIDE

By Nan Wang; LLB III  
Citations Editor McGill Law Journal

The CBC has not broadcast it. The Globe and Mail has made no mention of it. Even the 1992 Federal Referendum Questions fails to include it. But it is one of the biggest news items in the Canadian legal community: the third edition of the bilingual McGill Cite Guide is out. Full English citation of the book: McGill Law Journal, Canadian Guide to Uniform Legal Citation, 3d ed. (Toronto: Carswell, 1992); la référence en français est: Revue de droit de McGill, Manuel canadien de la référence juridique, 3e éd., Toronto: Carswell, 1992.

Le but du Manuel est de "chercher à aider l'auteur à structurer ses notes infra-paginales de façon à permettre au lecteur de repérer facilement les sources." Les critères que la Revue de droit de McGill a adoptés sont la clarté, la simplicité, l'uniformité et la conci-

sion.

What distinguishes the Cite Guide from other legal publications is that it is made in McGill, by McGill law students, past and present, who conceived, composed and improved the Cite Guide under the guidance of the Faculty of Law. As proof of this, you will find in the acknowledgements names of people you already know, who may be your classmates or your tutorial leaders, past or present. Lawyers will find there names of their partners who were McGill law students when they started to work on the Cite Guide nearly a decade ago.

Ce qui distingue la 3e édition du Manuel de ses prédécesseurs est une révision intégrale et l'ajout de nouvelles sections, comme dans le cas des chapitres sur les sources américaines et sur la documentation internationale. En particulier, les exemples ont été choisis dans l'intention d'aider les étudiant(e)s qui n'ont qu'une heure avant l'échéance pour leurs tra-

vaux. Donc, si vous avez besoin de la référence à la Charte canadienne, cherchez-la dans l'index et vous trouverez facilement la référence complète. Également, on trouvera sans difficulté des conventions internationales importantes telles que le GATT, L'Accord de libre-échange et la Charte de Nations Unies.

The appendices of the guide are also very useful. A perusal of case reporters and law journals, for instance, will open up new fields in your legal research. You will have probably bought a copy of the Cite Guide if you are in the first year, but fellow students in upper years are well advised to obtain a copy—if not use it, just place it on the bookshelf: it will be a good conversation piece. As a basic tool for legal research, the Cite Guide is indispensable, whether you are a student now, or want to be practising lawyer or law professor after you graduate. Indeed, it is something every McGill law student should be proud of.



# SEEKING REFUGE

By Ella Heyder; LLB II

Providing asylum to persons who are persecuted by their own governments arises from Canada's humanitarian tradition, as well as from its international legal obligations. Many refugees have been granted protection in this country, but even so, there are serious problems with the process of determining a claimant's refugee status. The government compounded those problems recently by introducing Bill C-86, which threatens to weaken Canada's commitment to refugees.

## HISTORY

In signing the 1951 United Nations Geneva Convention on the Status of Refugees in 1969, Canada agreed not to refoule (send back) any person who is unable to return to his/her country because of a well-founded fear of persecution for reasons of race, religion, nationality, political opinion, or membership in a particular social group. The convention was later incorporated into the 1976 Immigration Act.

In Singh and Minister of Employment and Immigration [1985], the SCC established that refugee claimants have a right to be heard orally by a competent decision maker. Since 1989, the Immigration and Refugee Board (IRB) has been charged with that responsibility.

## PROBLEMS

In spite of these obligations, David Matas, President of the Canadian Council of Refugees, found that refugee protection often fails in practice. He goes on to say that Immigration Canada and the IRB often pose obstacles to making claims and deny due process to claimants. Furthermore, the IRB, often uses methods such as misinterpreting the refugee defi-

nition and disbelieving claimants' stories for irrelevant reasons. (The latter is of particular concern because incorrect findings of credibility are almost impossible to challenge on appeal.) Many such flaws in decision-making were found recently in a project (on which three McGill law students worked) undertaken by the refugee advocacy organisation Tyndale St. George.

The UN Handbook states that, because of the dire risks faced by refouled refugees, the benefit of the doubt should be given to claimants. The refugee determination procedure conforms to this stipulation by having split decisions go in favour of the claimant. However, the decision makers often ignore this requirement when deciding whether a claimant is credible. Many IRB members confront refugee claimants with suspicion and an overzealousness to detect fraud which sometimes results in illogical and patently erroneous reasons for denying asylum.

## REASONS FOR PROBLEMS

These problems may be founded on immigration officials' exaggerated skepticism and perhaps even racism. Many IRB members hold an unfounded belief that most claimants are economic refugees. Furthermore, preference is shown towards claimants from Western countries. In fact, the Minister of Employment and Immigration has recently given preferential treatment to former Yugoslavs over claimants from the equally troubled Somalia.

No doubt the fact that IRB members are "political appointments", chosen for their connections rather than any refugee experience, accounts for many errors and for the suspicious attitude shown toward numerous claimants. The Law Reform Commission considered this when it

found "serious problems in the manner in which some IRB members conducted hearings, dealt with evidence presented and decided cases. Critical qualities were found sadly lacking in some members [including] experience in making important decisions and dealing with claimants from diverse linguistic and cultural backgrounds." (Report of March 5, 1992).

## BILL C-86

According to Dan Heap, NDP immigration critic, the proposed legislation, Bill C-86, would deny the protections stipulated by Canadian law to thousands of true refugees seeking protection in Canada in at least three ways:

- 1) Denial of access to refugee status determination: refugee claimants would be turned away at the border without the chance of a hearing if, for example, they had travelled through a proscribed third country to reach Canada.
- 2) Restricting further the right of appeal: appeals would be heard by only one judge of the Trial Division of the Federal court, instead of three senior judges of the Court of Appeal (as is now done) and there would be no further appeal (unless that judge were to recommend an appeal of his/her own decision).
- 3) Weakening the benefit of the doubt: in certain cases, if the two-member IRB panel is split, the refugee claim would be denied (whereas the current procedure is to grant asylum in all split decisions).

## DISCUSSION

Lawyers for Social Responsibility invites you to a discussion of Bill C-86 and refugee concerns in general with Mr. Nee Okai, Chairman of the Montreal coalition of Refugee Organisations on Wednesday, October 14, in room 202, and to protest the proposed legislation by signing our petition.